

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LOUIE ABARCA GOMEZ,  
Petitioner,

No. C 07-6094 MHP (pr)

**ORDER OF DISMISSAL**

v.

JAMES TILTON, Director,  
Respondent.

Louie Abarca Gomez, an inmate at the Correctional Training Facility in Soledad, has filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, in which he challenges the calculation of time credits on his sentence imposed upon a conviction in Yolo County Superior Court in 2006. His petition is now before the court for review pursuant to 28 U.S.C. §2243 and Rule 4 of the Rules Governing Section 2254 Cases.

Prisoners in state custody who wish to challenge either the fact or length of their confinement in federal court by a petition for writ of habeas corpus are first required to exhaust state judicial remedies, either on direct appeal or through collateral proceedings, by presenting the highest state court available with a fair opportunity to rule on the merits of each and every issue they seek to raise in federal court. 28 U.S.C. § 2254(b),(c); Granberry v. Greer, 481 U.S. 129, 133-34 (1987).

Gomez alleges in his petition that he did not raise his claim in the California Supreme Court before he filed his federal habeas petition. See Petition, p. 6. State judicial remedies therefore have not been exhausted for the claim, and Gomez has not presented any exceptional circumstances to excuse his failure to exhaust. See Granberry, 481 U.S. at 133-

34. Gomez must present his claim to the California Supreme Court to give that court a fair opportunity to rule on the merits of his claim before he presents the claim in a federal habeas petition.

For the foregoing reasons, the petition is DISMISSED without prejudice to Gomez filing a new habeas action after available state judicial remedies are exhausted. The in forma pauperis application is GRANTED. (Docket # 2.) The clerk shall close the file.

IT IS SO ORDERED.

DATED: January 2, 2008

  
Marilyn Hall Patel  
United States District Judge